

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:  
STEVEN C. BRUESS  
MERCHANT & GOULD P.C.  
P. O. BOX 2903  
MINNEAPOLIS, MN 55402-0903

## PCT

### NOTIFICATION OF TRANSMITTAL OF INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Rule 71.1)

Date of Mailing (day/month/year)	<b>10 OCT 2003</b>
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Applicant's or agent's file reference

60063.8WOU1

#### IMPORTANT NOTIFICATION

International application No.

International filing date (day/month/year)

Priority date (day/month/year)

PCT/US02/24911

06 August 2002 (06.08.2002)

06 August 2001 (06.08.2001)

Applicant

VANDERBILT UNIVERSITY

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.
4. **REMINDER**

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices)(Article 39(1))(see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

Name and mailing address of the IPEA/US

Mail Stop PCT, Attn: IPEA/US  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Facsimile No. (703)305-3230

Authorized officer

*L. Blaine Lankford*  
L. Blaine Lankford

Telephone No. 703-308-0196

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.  
PCT/US02/24911

## V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. STATEMENT

Novelty (N)	Claims <u>1-74</u>	YES
	Claims <u>NONE</u>	NO
Inventive Step (IS)	Claims <u>1-74</u>	YES
	Claims <u>NONE</u>	NO
Industrial Applicability (IA)	Claims <u>1-74</u>	YES
	Claims <u>NONE</u>	NO

### 2. CITATIONS AND EXPLANATIONS

Claims 1-74 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest the claimed device.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US02/24911

**I. Basis of the report**

## 1. With regard to the elements of the international application:\*

- ☒ the international application as originally filed.
- ☒ the description:  
pages 1-90 as originally filed  
pages NONE filed with the demand  
pages NONE filed with the letter of \_\_\_\_\_.
- ☒ the claims:  
pages 91-103 as originally filed  
pages NONE as amended (together with any statement) under Article 19  
pages NONE filed with the demand  
pages NONE filed with the letter of \_\_\_\_\_.
- ☒ the drawings:  
pages 1-41 as originally filed  
pages NONE filed with the demand  
pages NONE filed with the letter of \_\_\_\_\_.
- ☐ the sequence listing part of the description:  
pages NONE as originally filed  
pages NONE filed with the demand  
pages NONE filed with the letter of \_\_\_\_\_.

## 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

## 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages NONE
- ☐ the claims, Nos. NONE
- ☐ the drawings, sheets/fig NONE

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.  
PCT/US02/24911

## V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. STATEMENT

Novelty (N)	Claims <u>1-74</u>	YES
	Claims <u>NONE</u>	NO
Inventive Step (IS)	Claims <u>1-74</u>	YES
	Claims <u>NONE</u>	NO
Industrial Applicability (IA)	Claims <u>1-74</u>	YES
	Claims <u>NONE</u>	NO

### 2. CITATIONS AND EXPLANATIONS

Claims 1-74 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest the claimed device.

# PATENT COOPERATION TREATY

KLW

From the INTERNATIONAL SEARCHING AUTHORITY

To:  
RONALD A. DAIGNAULT  
MERCHANT & GOULD P. C.  
P. O. BOX 2903  
MINNEAPOLIS, MN 55402-0903

## PCT

### NOTIFICATION OF TRANSMITTAL OF THE INTERNATIONAL SEARCH REPORT OR THE DECLARATION

(PCT Rule 44.1)

ATY RESP SR: September

*No Corresponding US File*

Date of Mailing  
(day/month/year) **23 JUL 2003**

200:

Applicant's or agent's file reference  
60063.8WOU1

FOR FURTHER ACTION See paragraphs 1 and 4 below

D1

International application No.  
PCT/US02/24911

International filing date  
(day/month/year)  
06 August 2002 (06.08.2002)

Applicant  
VANDERBILT UNIVERSITY

1. ☒ The applicant is hereby notified that the international search report has been established and is transmitted herewith.

**Filing of amendments and statement under Article 19:**

The applicant is entitled, if he so wishes, to amend the claims of the international application (see Rule 46):

**When?** The time limit for filing such amendments is normally two months from the date of transmittal of the international search report.

**Where?** Directly to the International Bureau of WIPO, 34, chemin des Colombettes  
1211 Geneva 20, Switzerland, Facsimile No.: (41-22) 740.14.35

For more detailed instructions, see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect is transmitted herewith.

3. ☐ With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:

☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.

☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. **Reminders**

Shortly after 18 months from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90 bis.1 and 90 bis.3, respectively, before the completion of the technical preparations for international publication.

Within 19 months from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later); otherwise the applicant must, within 20 months from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

In respect of other designated Offices, the time limit of 30 months (or later) will apply even if no demand is filed within 19 months.

See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the *PCT Applicant's Guide*, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the ISA/US  
Commissioner for Patents  
Box PCT  
Washington, D.C. 20231  
Facsimile No. (703)305-3230

Authorized officer

*L. Blaine Lankford*  
L. Blaine Lankford

Telephone No. 308-0196

Form PCT/ISA/220 (April 2002)

(See notes on accompanying sheet)

RECEIVED  
JUL 23 2003  
PCT/ISA/220

# PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

To:  
RONALD A. DAIGNAULT  
MERCHANT & GOULD P. C.  
P. O. BOX 2903  
MINNEAPOLIS, MN 55402-0903

## PCT

### NOTIFICATION OF TRANSMITTAL OF THE INTERNATIONAL SEARCH REPORT OR THE DECLARATION

(PCT Rule 44.1)

Applicant's or agent's file reference 60063.8WOU1	Date of Mailing (day/month/year) <b>23 JUL 2003</b>
International application No. PCT/US02/24911	International filing date (day/month/year) 06 August 2002 (06.08.2002)
Applicant VANDERBILT UNIVERSITY	

1. ☒ The applicant is hereby notified that the international search report has been established and is transmitted herewith.

**Filing of amendments and statement under Article 19:**

The applicant is entitled, if he so wishes, to amend the claims of the international application (see Rule 46):

**When?** The time limit for filing such amendments is normally two months from the date of transmittal of the international search report.

**Where?** Directly to the International Bureau of WIPO, 34, chemin des Colombettes  
1211 Geneva 20, Switzerland, Facsimile No.: (41-22) 740.14.35

For more detailed instructions, see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect is transmitted herewith.

3. ☐ With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:

- ☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.
- ☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. **Reminders**

Shortly after **18 months** from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90 *bis*.1 and 90 *bis*.3, respectively, before the completion of the technical preparations for international publication.

Within **19 months** from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until **30 months** from the priority date (in some Offices even later); otherwise the applicant must, within **20 months** from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

In respect of other designated Offices, the time limit of **30 months** (or later) will apply even if no demand is filed within 19 months.

See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the *PCT Applicant's Guide*, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the ISA/US Commissioner for Patents Box PCT Washington, D.C. 20231 Facsimile No. (703)305-3230	Authorized officer <i>Felicia D. Roberts for</i> L Blaine Lankford Telephone No. 308-0196
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# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference 60063.8WOU1	<b>FOR FURTHER ACTION</b>	see Notification of Transmittal of International Search Report (Form PCT/ISA/220) as well as, where applicable, item 5 below.
International application No. PCT/US02/24911	International filing date (day/month/year) 06 August 2002 (06.08.2002)	(Earliest) Priority Date (day/month/year) 06 August 2001 (06.08.2001)
Applicant VANDERBILT UNIVERSITY		

This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This international search report consists of a total of 2 sheets.



It is also accompanied by a copy of each prior art document cited in this report.

#### 1. Basis of the Report

a. With regard to the language, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.



the international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

b. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international search was carried out on the basis of the sequence listing:



contained in the international application in written form.



filed together with the international application in computer readable form.



furnished subsequently to this Authority in written form.



furnished subsequently to this Authority in computer readable form.



the statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.



the statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

2. ☐ Certain claims were found unsearchable (See Box I).

3. ☐ Unity of invention is lacking (See Box II).

4. With regard to the title,



the text is approved as submitted by the applicant.



the text has been established by this Authority to read as follows:

5. With regard to the abstract,



the text is approved as submitted by the applicant.



the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box III. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. The figure of the drawings to be published with the abstract is Figure No. \_\_\_\_\_



as suggested by the applicant.



because the applicant failed to suggest a figure.



because this figure better characterizes the invention.



None of the figures

# INTERNATIONAL SEARCH REPORT

International application No.

PCT/US02/24911

## A. CLASSIFICATION OF SUBJECT MATTER

IPC(7) : C12N 5/00  
US CL : 435/287.1, 288.7, 325

According to International Patent Classification (IPC) or to both national classification and IPC

## B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)  
U.S. : 435/283.1, 325, 287.1, 288.7

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)  
EAST

## C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	US 5,888,825 A (CARR et al) 30 March 1999 (30.03.1999), see entire document.	1-74

☐ Further documents are listed in the continuation of Box C.

☐ See patent family annex.

<p>* Special categories of cited documents:</p> <p>"A" document defining the general state of the art which is not considered to be of particular relevance</p> <p>"E" earlier application or patent published on or after the international filing date</p> <p>"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)</p> <p>"O" document referring to an oral disclosure, use, exhibition or other means</p> <p>"P" document published prior to the international filing date but later than the priority date claimed</p>		<p>"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention</p> <p>"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone</p> <p>"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art</p> <p>"&amp;" document member of the same patent family</p>
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Date of the actual completion of the international search

25 June 2003 (25.06.2003)

Name and mailing address of the ISA/US  
Commissioner of Patents and Trademarks  
Box PCT  
Washington, D.C. 20231

Facsimile No. (703)305-3230

Date of mailing of the international search report

23 JUL 2003

Authorized officer  
Elicia D. Roberts for  
E Blaine Lankford

Telephone No. 308-0196



## NOTES TO FORM PCT/ISA/220 (continued)

The following examples illustrate the manner in which amendments must be explained in the accompanying letter:

1. [Where originally there were 48 claims and after amendment of some claims there are 51]:  
"Claims 1 to 29, 31, 32, 34, 35, 37 to 48 replaced by amended claims bearing the same numbers; claims 30, 33 and 36 unchanged; new claims 49 to 51 added."
2. [Where originally there were 15 claims and after amendment of all claims there are 11]:  
"Claims 1 to 15 replaced by amended claims 1 to 11."
3. [Where originally there were 14 claims and the amendments consist in cancelling some claims and in adding new claims]:  
"Claims 1 to 6 and 14 unchanged; claims 7 to 13 cancelled; new claims 15, 16 and 17 added." or  
"Claims 7 to 13 cancelled; new claims 15, 16 and 17 added; all other claims unchanged."
4. [Where various kinds of amendments are made]:  
"Claims 1-10 unchanged; claims 11 to 13, 18 and 19 cancelled; claims 14, 15 and 16 replaced by amended claim 14; claim 17 subdivided into amended claims 15, 16 and 17; new claims 20 and 21 added."

### "Statement under Article 19(1)" (Rule 46.4)

The amendments may be accompanied by a statement explaining the amendments and indicating any impact that such amendments might have on the description and the drawings (which cannot be amended under Article 19(1)).

The statement will be published with the international application and the amended claims.

The statement should be brief, it should not exceed 500 words if in English or if translated into English.

It should not be confounded with and does not replace the letter indicating the differences between the claims as filed and as amended. It must be filed on a separate sheet and must be identified as such by a heading, preferably by using the words "Statement under Article 19(1)".

It should not contain any disparaging comments on the international search report or the relevance of citations contained in that report. Reference to citations, relevant to a given claim, contained in the international search report, may be made only in connection with an amendment of that claim.

### In what language ?

The amendments must be made in the language in which the international application is published. The letter and any statement accompanying the amendments must be in the same language as the international application if that language is English or French; otherwise, it must be in English or French, at the choice of the applicant.

### Consequence if a demand for international preliminary examination has already been filed ?

If, at the time of filing any amendments under Article 19, a demand for international preliminary examination has already been submitted, the applicant must preferably, at the same time of filing the amendments with the International Bureau, also file a copy of such amendments with the International Preliminary Examining Authority (see Rule 62.2(a), first sentence).

### Consequence with regard to translation of the international application for entry into the national phase ?

The applicant's attention is drawn to the fact that, where upon entry into the national phase, a translation of the claims as amended under Article 19 may have to be furnished to the designated/elected Offices, instead of, or in addition to, the translation of the claims as filed.

For further details on the requirements of each designated/elected Office, see Volume II of the PCT Applicant's Guide.